

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR.

O R D E R

M/s Himmat Petrol Service State of Rajasthan
and another v. and others

S.B.CIVIL WRIT PETITION NO.6602/2005
under Articles 226 and 227 of the
Constitution of India.

Date of Order : 23rd February, 2006

P R E S E N T

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Ranjeet Joshi, for the petitioners.
Mr. B.L.Tiwari, Dy.Govt.Advocate.
Mr. M.S.Singhvi]
Mr. Arun Bhansali] for the respondents.

BY THE COURT :

By the instant petition for writ following
reliefs are claimed by the petitioners:-

“(a)That by an appropriate writ, order or
direction that the respondent no.2 District
Magistrate (Collector), Jodhpur may be
directed that he will not issue the NOC to
the respondents No.3 & 8 for the
installation of the new petrol pump M/s.
Reliance Industries Ltd., Jodhpur over the
proposed land by respondent No.3 & 8 which
is situated in khasra no.75 of the village
Genwa adjoining to the 132/33 KC Grid Sub-
station at near Chopar, Soorsagar Road,
Jodhpur.

(b)That the respondent no.3 & 8 may be directed that they will not raise construction and install the petrol pump over the proposed land by the respondent no.3 & 8 as mentioned para no.(a) of prayer above.

(c)That the respondents may further be directed that they will not do the conversion of the land from agricultural land to commercial land for the installation of the petrol pump over the proposed land by the respondent no.3 & 8."

The petitioner No.1, a dealer of Bharat Petroleum Corporation Ltd. is having a lease to run a retail petrol outlet at Gram Genwa on Jodhpur-Jaisalmer Highway and the petitioner No.2 is authorised signatory of petitioner No.1 M/s Himmat Petrol Service. The relief claimed is founded with allegation of non adherence of prescribed norms by the respondent No.3 Reliance Industries Ltd. while establishing a petrol retail outlet at national highway No.114 close to mile stone No.8.400 in khasra No.75. According to the petitioners, Reliance Industries Ltd. has applied before the collector, Jodhpur to obtain a No Objection Certificate for the purpose of establishing its petrol pump and also appointed respondent No.8 Shri Jagdish Sankhla as its petrol outlet dealer.

The Government of India, Ministry of Road Transport and Highways under its circular dated 25.9.2003/17.10.2003 prescribed norms for the access for fuel stations. According to the petitioners the respondent Reliance Industries Ltd. while establishing petrol pump as stated above is not maintaining the distance criteria between two petrol pumps prescribed under clause 6.2.2 of the norms. According to the petitioners the distance between petrol pump sought to be installed by Reliance Industries Ltd. is of only 275 meters from the petrol pump run by the petitioners, that is not of 300 meters as required. The petitioners have also contended that the proposed site for installation of petrol pump by Reliance Industries Ltd. is quite close to 132/33 KC Subgrid Station, Soorsagar, Jodhpur, as such, there is eminent danger of serious accident in the adjoining areas. The petitioners have also stated that the collector, Jodhpur may grant No Objection Certificate in favour of respondent Reliance Industries Ltd. to install petrol pump without verifying the compliance of norms prescribed by Ministry of Road Transport and Highways and also without assessing public safety.

A reply to the writ petition is filed on behalf of Reliance Industries Ltd. as well as on behalf of respondent No.8 Shri Jagdish Sankhla. The respondents in their respective replies alleged that the petitioner being a dealer of Bharat Petroleum

Corporation Ltd. has preferred the present writ petition with motive to make an attempt to create monopoly and to avoid competition in the business by seeking to prevent them to set up and operate retail outlet of petrol. According to the respondents the petition is not bonafide and the petitioners not only placed on record the distorted facts but also concealed material facts. The respondents have denied the allegation with regard to violation of the norms prescribed by Ministry of Road Transport and Highways. The respondents have also asserted that 132 KV line is situated far beyond permissible distance from the proposed retail outlet and there is no danger of any accident because of installation of proposed petrol retail outlet. It is also stated that proposed retail outlet is not situated within 300 meters of the retail outlet run by the petitioners. The allegation of the petitioners that the Collector, Jodhpur shall issue No Objection Certificate without ensuring compliance of the norms prescribed by Ministry of Road Transport and Highways is also said ill-founded.

A rejoinder is also filed on behalf of the petitioners reiterating the facts stated in the writ petition. Certain photographs are also placed on record by the petitioners to substantiate the contentions.

Heard counsel for the parties.

The basic contention of the petitioners about establishment of retail petrol outlet within the distance of 300 meters from the petrol pump run by them is denied by the respondents. The respondents have specifically stated that they are adhering the norms prescribed by Ministry of Road Transport and Highways for the access for location, lay out and access to fuel station along National Highway.

The fact as to whether the respondents have maintained the distance norms prescribed by Ministry of Road Transport and Highways is highly disputed in present writ petition. This question of fact cannot be adjudicated and settled in writ jurisdiction vested with this Court. This issue is required to be established by adducing evidence and by making an effective inquiry. I do not find this Court sufficiently equipped to settle this disputed question of fact.

Similarly, the contention of counsel for the petitioners with regard to establishment of petrol pump close to 132/33 KV Subgrid Station, Soorsagar, Jodhpur is also highly disputed. The respondents in their reply have stated that the proposed site for installing the petrol pump is not close to 132/33 KV Subgrid Station, Soorsagar and, therefore, there is no violation of Indian Electricity Act or the Rules framed thereunder. This fact being highly disputed too

cannot be adjudicated in writ jurisdiction. It is true that photographs placed on record by the petitioners show that a subgrid station is there but solely on basis of such photographs no finding about the effect of installing retail petrol outlet can be given.

It is further contended by counsel for the petitioners that this Court in the case of Dalpat Singh v. Union of India & Ors., reported in 2005(4) WLC (Raj.) 378, directed all Oil Companies to make strict compliance of the guidelines framed by Ministry of Road Transport and Highways while installing the petrol pumps, such directions are required to be reiterated in present case also.

It is true that this Court in the case of Dalpat Singh (supra) directed the Oil Companies to follow the guidelines framed by Ministry of Road Transport and Highways and other relevant government authorities while installing retail petrol outlets and they are abide by that. In the instant matter the respondent Reliance Industries Ltd. in its reply has asserted that it has complied with all the directions and norms established by Ministry of Road Transport and Highways. The compliance of legal conditions and norms prescribed by competent authorities while installation of petrol pumps are always required to be adhered with. General directions have already been given by this Court in the case of Dalpat Singh

(supra) and all Oil Companies including the respondent No.3 are abide by that. If there is any violation of such norms than the same can always be pointed out by making compliant to the competent authority.

In view of whatever discussed above, I am of the view that the allegations made by the petitioners involve disputed questions of fact which cannot be adjudicated in writ jurisdiction and, therefore, this petition for writ under Article 226 of the Constitution of India is dismissed. However, it is open for the petitioners to approach the competent forum, including a civil court for redressal of their grievance.

No order as to costs.

(GOVIND MATHUR),J.

kkm/ps.